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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF WASHINGTON AT SPOKANE

14 JAMES LEIGHTY,

15 Plaintiff,

16 v.

17 SPOKANE COUNTY, a municipal
18 corporation; SHERIFF JOHN NOWELS,
19 an individual; and SPOKANE COUNTY
20 SHERIFF'S OFFICE, a subdivision of a
21 municipal corporation,

22 Defendants.

No.

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES

JURY TRIAL REQUESTED

23 **I. NATURE OF THE CASE**

1.1. This case arises out of the Spokane County Sheriff's unconstitutional, repeated, and ongoing censorship of Plaintiff's free speech.

1.2. The Spokane County Sheriff's Office maintains an official

COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES - 1

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1 government Facebook page, on which it posts information and updates about
2 Sheriff's Office news, incidents, events, and services. In addition to serving as a
3 source of news and information about the Spokane County Sheriff's Office, it is an
4 important public forum for speech by, to, and about the Office. The Spokane
5 County Sheriff's Office has repeatedly censored Mr. Leighty's protected criticisms
6 of the Office in this public forum.

7 1.3. Mr. Leighty wrote comments in response to official Facebook posts
8 by the Spokane County Sheriff's Office. The Sheriff's Office removed many of
9 Mr. Leighty's comments from public view based on Mr. Leighty's viewpoint while
10 allowing other pro-police viewpoints to remain visible, in violation of the First
11 Amendment.

12 1.4. At no time has the Spokane County Sheriff's Office ever notified
13 Plaintiff that it hid his comments or provided an explanation for that action. At no
14 time has Spokane County Sheriff's Office ever provided Plaintiff with an
15 opportunity to object to the censorship.

16 1.5. Mr. Leighty brings this complaint for injunctive relief and damages to
17 remedy multiple First Amendment violations.

18 **II. PARTIES**

19 2.1. Plaintiff JAMES "JIM" LEIGHTY is an individual residing in
20 Spokane, Washington. Since 2017, Plaintiff James Leighty has been a police
21 accountability activist in the Inland Northwest, working on gathering public
22 records for victims of police violence, legislative reform, and public awareness
23 through engagement in public discourse on law enforcement social media

1 accounts.

2 2.2. Defendant SHERIFF JOHN NOWLES is an individual who is the
3 current elected Sheriff of Spokane County acting within the scope of his
4 employment and under the color of state law. Sheriff Nowles was the sheriff
5 during the period of time when several of the constitutional violations alleged
6 herein occurred. Sheriff Nowles also inherited the liabilities of earlier violations
7 alleged herein, which may have occurred under the administration of Sheriff
8 Nowles' predecessor, Sheriff Ozzie Knezovich. Sheriff Nowles is a policymaker of
9 the Spokane County Sheriff's Office with respect to the Spokane County Sheriff's
10 Office's Facebook page practices and policies.

11 2.3. Defendant SPOKANE COUNTY is a municipal corporation
12 organized under the laws of the State of Washinton and located within in the
13 territory of the Eastern District of Washington. SPOKANE COUNTY owns,
14 operates, and is legally responsible for the acts and omissions of its law
15 enforcement agency, the Spokane County Sheriff's Office ("SCSO").

16 **III. JURISDICTION AND VENUE**

17 3.1. This Court has original subject matter jurisdiction pursuant to 42
18 U.S.C. § 1983, as well as 28 U.S.C. §§ 1331 and 1343.

19 3.2. Venue is appropriate in the Eastern District of Washington pursuant to
20 28 U.S.C. § 1391 because at least some of the Defendants reside in this judicial
21 district and because the events and omissions giving rise to the claims alleged here
22 occurred within Eastern District of Washington.

IV. FACTUAL ALLEGATIONS

4.1. Facebook is an internet-based social media platform with nearly 3 billion active users worldwide, and over 230 million users in the United States.

4.2. Facebook offers two ways to establish a presence on its platform: profiles and pages. Private individuals create profiles to share personal information and connect with other users. Pages are used by public-facing entities – businesses, brands, governmental organizations, public figures, and other organizations – to connect with their citizens, constituents, customers, or fans.

4.3. Spokane County and the Spokane County Sheriff’s Office (SCSO) have a Facebook page entitled “Spokane County Sheriff’s Office.” The page is hosted at <https://www.facebook.com/SpokaneCountySheriffsOffice>. The page is labeled as a “Law Enforcement Agency” page and lists a mailing address, phone number, email address, and website associated with the Sheriff’s Office.

4.4. Defendant Nowles authorized employees or agents of SCSO to manage the Facebook page, exercising page-management permissions and privileges. As such, these designated employees or agents act as final policymakers of the Spokane County Sheriff’s Office with respect to management of the Office’s Facebook page.

4.5. The SCSO Facebook page links to a “Social Media Disclaimer” document, which states: “The purpose of the Spokane County Sheriff’s Office’s participation in social media is to enhance communication, collaboration, information exchange, and transparency, streamline processes, and foster productivity. . . . This social media site is intended to serve as a mechanism for

1 communication between the public and SCSO on the listed topics.” The Disclaimer
2 document also indicates that comments are subject to public disclosure pursuant to
3 RCW 42.56, Washington State’s Public Records Act.

4 4.6. The “Disclaimer” document goes on to state:

5 SCSO reserves the right to delete postings that are inconsistent with
6 the policies in this disclaimer, including, but not limited to, comments
7 that contain the following prohibited words, text, or information:

- 8 • Defamatory, vulgar, obscene, abusive, profane, threatening,
9 hateful, intimidating, or otherwise offensive language.
- 10 • Sexual content or links to sexual content.
- 11 • Malicious or offensive comments based on gender, race, class,
12 ethnicity, national origin, political affiliation, religion, sexual
13 orientation, disability or other classifications.
- 14 • Solicitations or advertisements, including promotion or
15 endorsement of any financial, commercial, or nongovernmental
16 agency.
- 17 • Attempts to defame or defraud any individual(s) or
18 organizations.
- 19 • Posts or comments in support of or opposition to political
20 campaigns or ballot measures.
- 21 • Viruses or similar harmful programs, including spam and
22 similar content.
- 23 • Proprietary information or intellectual property that is posted
without the approval of the owner. Copyrighted or trademarked
images or graphics. Imagery not owned by the user.
- Comments on matters unrelated to activities of Spokane
County or Spokane Valley, associated boards, committees or
programs, policies, operations, or general areas of responsibility
and representation.

- Information that may compromise the safety or security of the public, public officials, or public systems.
- Information that violates a local, state, or national law or suggests or encourages illegal activity.

4.7. Any Facebook user can view the SCSO Facebook page.

4.8. Any Facebook user can choose to “follow” the SCSO Facebook page. When a Facebook user “follows” the SCSO Facebook page, they effectively subscribe to all posts written and published by the SCSO. These posts appear on the user’s home feed, which is a unique compilation of posts presented to each user when they log into their Facebook account.

4.9. Only SCSO can “post” to its Facebook page. However, any member of the public can interact with SCSO’s posts in a number of ways, regardless of whether they “follow” the page. A user can choose from one of several emoticon reactions to a post: “like,” “love,” “care,” “haha,” “wow,” “sad,” or “angry.” And a user can share the post directly to their Facebook friends, to their home feed, send it in a private message to another Facebook user, share it to a group of Facebook users, or share it to a Facebook user’s profile page. A user can also comment on the post directly or reply to a comment posted by another user.

4.10. The “comment” feature (and replies thereto) allows users to type free form messages on SCSO posts.

4.11. The interactive comment section associated with posts published by the Spokane County Sheriff’s Office Facebook page is a designated public forum.

4.12. Plaintiff James Leighty is a U.S. Army veteran and police

1 accountability activist residing in Spokane, Washington. Mr. Leighty advocates for
2 training, transparency, and accountability for law enforcement to redress and
3 prevent fatal and harmful law enforcement violence. Mr. Leighty attends and
4 organizes events, speaks to media, and interfaces with local government and law
5 enforcement entities.

6 4.13. In 2017, a law enforcement officer shot and killed Mr. Leighty's close
7 friend Craig Johnson during a home wellness check. After Mr. Johnson's death,
8 Mr. Leighty began following local law enforcement agency social media pages,
9 commenting on their posts, and replying to comments posted by other Facebook
10 users.

11 4.14. Mr. Leighty began interacting with the Spokane County Sheriff's
12 Office's official Facebook page. SCSO has censored many of Mr. Leighty's
13 comments on its Facebook page.

14 4.15. There are at least two different ways an agency can censor content on
15 its Facebook page: "deleting" and "hiding."

16 4.16. When an agency "deletes" a comment, it no longer is viewable by
17 anyone, including the user who made the comment.

18 4.17. When an agency "hides" a comment, it remains visible only to the
19 user who made it and others connected to the user as a Facebook "friend." In other
20 words, a "hidden" comment is invisible to the general public.

21 4.18. "Hiding" a comment on Facebook is an especially pernicious form of
22 censorship because it gives the user who made the comment no notice of the
23 adverse action: from the perspective of that user, the comment appears to be

1 circulating in the forum like any other comment. The only way the user can
2 determine the comment has been “hidden” is by taking further action to check the
3 comment: the user must log out of the account, and log in under an account not
4 associated as a “friend” of the original account. If the comment is not viewable,
5 then it has been “hidden.”

6 4.19. On March 17, 2021, SCSO posted on its Facebook, announcing the
7 name of a newly hired deputy. The post generated 20 comments, 16 shares, and
8 223 emoticon reactions. While logged in under his personal account, Plaintiff
9 commented on SCSO’s post, noting that the new hire played a role in a fatal
10 officer-involved shooting in Cheney, Washington in 2018. Plaintiff checked on his
11 comment by logging in under a different account a few days later and saw that
12 SCSO had “hidden” the comment, removing it from the public discourse. SCSO
13 allowed other comments naming and supporting the new hire to remain visible.

14 4.20. Defendants did not give notice to Plaintiff of the censorship in the
15 preceding paragraph, nor did they afford him an opportunity to oppose it.

16 4.21. On March 23, 2021, SCSO posted on its Facebook page, announcing
17 that no charges would be filed against one of its deputies who fatally shot a
18 Spokane resident. SCSO’s post included factual claims, analysis and conclusions,
19 and a detailed press release. Plaintiff commented on this post, criticizing the
20 decision to not file charges and raising additional factual issues and questions.
21 When Plaintiff checked on his comment by logging in under his different account,
22 he saw that SCSO had again “hidden” his comment and removed it from the public
23 discourse. SCSO allowed other comments naming the involved officer and offering

1 support to remain visible. SCSO additionally had publicly endorsed several of
2 these supportive comments by applying the “thumbs up” emoticon reaction to
3 them.

4 4.22. Defendants did not give notice to Plaintiff of the censorship in the
5 preceding paragraph, nor did they afford him an opportunity to oppose it.

6 4.23. On March 26, 2021, Plaintiff sent an email to then-SCSO Sheriff
7 Ozzie Knezovich, alleging that SCSO had been “censoring [his] comments on
8 Facebook that [it] finds critical of the Sheriff’s Office” and attaching screenshots
9 of both posts showing SCSO had deleted his comments.

10 4.24. On October 6, 2021, SCSO posted on its Facebook page, sharing a
11 link to a video of a shooting in Greenfield, Wisconsin. SCSO’s post commented on
12 the legitimate use of deadly force and criticized viewpoints that “some activists
13 and those in the national media want you to believe.” Plaintiff commented on
14 SCSO’s post using his personal account, criticizing the viewpoint promoted by
15 SCSO based upon a local example involving a fatal shooting by a SCSO deputy.
16 When Plaintiff saw that his comment had again been “hidden,” he posted a second
17 comment under his personal account, this one criticizing the fact that his first
18 comment had been censored. Plaintiff’s second comment was also “hidden” by
19 SCSO, while other public comments remained visible.

20 4.25. Defendants did not give notice to Plaintiff of the censorship in the
21 preceding paragraph, nor did they afford him an opportunity to oppose it.

22 4.26. On October 19, 2023, SCSO announced the details of an investigation
23 and prompt arrest on its Facebook page. Plaintiff commented on SCSO’s post

1 using his personal account, questioning the adequacy of the investigation given the
2 speed of the arrest, and referenced a publicly-known example of an SCSO deputy
3 attacking an elderly man during an arrest. When Plaintiff checked on his comment
4 by logging in under a different account, he saw that SCSO had “hidden” his
5 comment yet again. SCSO did not hide public comments that expressed support for
6 SCSO.

7 4.27. Defendants did not give notice to Plaintiff of the censorship in the
8 preceding paragraph, nor did they afford him an opportunity to oppose it.

9 4.28. On October 26, 2023, SCSO posted on its Facebook page, announcing
10 the details of a major drug bust. Plaintiff commented on SCSO’s post using his
11 personal account, questioning the whether the investigation was “thorough,
12 complete, and unbiased.” Plaintiff logged in under his different account and saw
13 that SCSO had “hidden” his comment, again. The only public comments visible
14 were supportive of SCSO. SCSO additionally had publicly endorsed supportive
15 comments by applying the “thumbs up” emoticon reaction to them.

16 4.29. Defendants did not give notice to Plaintiff of the censorship in the
17 preceding paragraph, nor did they afford him an opportunity to oppose it.

18 4.30. On February 21, 2024, SCSO posted on its Facebook page,
19 announcing that SCSO would begin an internal investigation into a SCSO deputy
20 for attacking an elderly man during an arrest, only after a municipal investigation
21 recommended felony assault charges the deputy. Plaintiff commented on SCSO’s
22 post, criticizing the delay in the internal investigation when the outcome was
23 “obvious from the beginning” and criticizing SCSO’s “horrible” culture. When

1 Plaintiff logged in under his different account, he saw that SCSO had again
2 “hidden” his comment, but allowed other public comments to remain visible.

3 4.31. Defendants did not give notice to Plaintiff of the censorship in the
4 preceding paragraph, nor did they afford him an opportunity to oppose it.

5 4.32. On March 20, 2024, SCSO posted on its Facebook page, announcing
6 an investigation into a civilian shooting that occurred the same day and providing
7 “initial information” about the shooting. Plaintiff commented on SCSO’s post,
8 questioning the speed of SCSO’s announcement in contrast to the many months
9 that SCSO waited before providing information about deputy-involved shootings.
10 When Plaintiff logged in under his different account, he saw that SCSO had
11 “hidden” his comment, but allowed other public comments that complimented
12 SCSO to remain visible. SCSO additionally had publicly endorsed these
13 complimentary comments by applying the “thumbs up” emoticon reaction to them.

14 4.33. Defendants did not give notice to Plaintiff of the censorship in the
15 preceding paragraph, nor did they afford him an opportunity to oppose it.

16 4.34. On May 8, 2024, SCSO posted on its Facebook page, announcing that
17 a murder suspect whom SCSO investigated and arrested had been convicted and
18 sentenced. Plaintiff commented on the post, asking when an SCSO deputy who had
19 attacked an elderly man during an arrest would be charged. Plaintiff later replied to
20 another comment, expressing sympathy for the murder victim’s family and
21 explaining that he wished SCSO would treat violence committed by their deputies
22 as seriously as it treated violence committed by civilians. When Plaintiff logged in
23 under his different account, he saw that SCSO had “hidden” his comments, but

1 allowed other public comments that complimented SCSO to remain visible and
2 publicly endorsed some by applying a “thumbs up” emoticon reaction to them.
3 SCSO also allowed public comments wishing violence or death on others to
4 remain visible.

5 4.35. Defendants did not give notice to Plaintiff of the censorship in the
6 preceding paragraph, nor did they afford him an opportunity to oppose it.

7 4.36. By removing Mr. Leighty’s comments from public view while
8 allowing neutral and “pro-police” comments to remain visible on the SCSO
9 Facebook page, Defendants engaged in viewpoint-based restriction of speech.

10 4.37. Defendants did not notify Mr. Leighty that they had removed his
11 comments from public view, did not explain why they removed his comments, and
12 have not provided him with any recourse to appeal the removal to a neutral arbiter.
13 These failures violated Mr. Leighty’s constitutional rights to procedural due
14 process.

15 4.38. Mr. Leighty’s comments on the Spokane County Sheriffs’ Office
16 official Facebook page are protected speech under the First Amendment. By and
17 through the enforcement, non-enforcement, and discriminatory enforcement of
18 their written “Disclaimer” policy, which resulted in hiding and deleting Mr.
19 Leighty’s comments, Defendants have violated and continue to violate Mr.
20 Leighty’s right to free speech and the rights of others by selectively removing
21 comments from the SCSO’s official Facebook page.

22 4.39. Defendants’ unconstitutional censorship of Plaintiff are instances of
23 Defendants’ existing policy and practice of hiding Facebook comments to silence

1 viewpoints that are critical of the Spokane County Sheriff's Office and its
2 employees. This censorship constitutes unconstitutional content-based and
3 viewpoint-based restriction of the First Amendment.

4 4.40. Defendants' violations have caused and continue to cause Mr. Leighty
5 irreparable harm to his right to free expression and procedural due process, for
6 which Mr. Leighty seeks both injunctive and compensatory relief.

7 **V. INJUNCTIVE CLAIMS**

8 5.1. The allegations in the preceding paragraphs are incorporated by
9 reference.

10 5.2. Defendants have violated and continue to violate Plaintiff James
11 Leighty's First Amendment rights by censoring Plaintiff's protected expressions on
12 the basis of viewpoint, restricting Plaintiff's participation in public debate and his
13 right to petition the government for redress of grievances. These Constitutional
14 injuries are ongoing and irreparable.

15 5.3. Defendants have violated and continue to violate Plaintiff James
16 Leighty's Fourteenth Amendment rights to procedural due process. Namely,
17 Defendants have failed to provide notice of proposed adverse governmental action
18 and an opportunity to be heard in arguing against the censorship. Nor have
19 Defendants provided any post-deprivation notice or opportunity to be heard. These
20 Constitutional injuries are ongoing and irreparable.

21 **VI. DAMAGES CLAIMS**

22 6.1. The allegations in the preceding paragraphs are incorporated by
23 reference.

1 6.2. Defendants have violated Plaintiff James Leighty's First Amendment
2 rights by censoring Plaintiff's protected expressions on the basis of viewpoint,
3 restricting Plaintiff's participation in public debate and his right to petition the
4 government for redress of grievances, resulting in Constitutional and emotional
5 harm. This cause of action is brought under 42 U.S.C. §1983 and the First
6 Amendment, which is applicable to local jurisdictions through the Fourteenth
7 Amendment to the U.S. Constitution.

8 6.3. Defendants have violated and continue to violate Plaintiff James
9 Leighty's Fourteenth Amendment rights to procedural due process. Namely,
10 Defendants have failed to provide notice of proposed adverse governmental action
11 and an opportunity to be heard in arguing against the censorship. Nor have
12 Defendants provided any post-deprivation notice or opportunity to be heard. This
13 cause of action is brought under 42 U.S.C. §1983 and the Fourteenth Amendment
14 to the U.S. Constitution.

15 **VII. REQUEST FOR RELIEF**

16 7.1. WHEREFORE, Plaintiff requests relief against Defendants as follows:

17 7.2. Prospective and mandatory injunctive relief requiring Defendants to
18 unhide or recover Plaintiff's comments on Spokane County Sheriff's Office page
19 posts, and prohibiting Defendants from removing comments made by Plaintiff or
20 others from public view;

21 7.3. Prospective and mandatory injunctive relief requiring Defendants to
22 provide Plaintiff with notice and opportunity to be heard before removing
23 comments on Spokane County Sheriff's Office page posts,

7.6. Punitive damages from the individual Defendants on Plaintiff's claims under 42 U.S.C. §1983;

7.8. Leave to amend the pleadings to confirm to the evidence at trial; and

7.9. Such other relief as may be just and equitable.

DATED this 16th day of May, 2024.

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